

Message Text

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ACTION OES-05

INFO OCT-01 IO-10 ISO-00 SS-15 L-03 PA-02 PRS-01 USIA-15

ACDA-10 CIAE-00 INR-07 NSAE-00 NSC-05 EB-07 NRC-07

FEAE-00 AF-06 ARA-10 EA-10 EUR-12 NEA-10 SP-02 /138 W

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R 131440Z JUN 75

FM USMISSION IAEA VIENNA

TO SECSTATE WASHDC 5974

INFO USERDA GERMANTOWN

UNCLAS SECTION 1 OF 2 IAEA VIENNA 5124

EO 11652: NA

TAGS: AORG OCON IAEA TECH PARM SZ

SUBJECT: JUNE BOARD OF GOVERNORS MEETING, AGENDA ITEM 8

(A): SWISS/IAEA SAFEGUARDS AGREEMENT

ALSO PASS NRC

REF: A. STATE 136596 B. IAEA VIENNA 4955 C. IAEA VIENNA 4946

1. SUMMARY. AFTER MORE THAN USUAL DEBATE IN CONNECTION WITH SAFEGUARDS AGREEMENT BROUGHT BEFORE BG, SWISS/IAEA SAFEGUARDS AGREEMENT AS APPROVED. SUMMARY OF KEY POINTS BY DELS FROM SWITZERLAND, US, FRG, CANADA, AUSTRALIA AND INDIA FOLLOWS BELOW. END SUMMARY

2. DG INTRODUCED ITEM, NOTING, INTER ALIA, THAT AGENCY WOULD CONFIRM IN EXCHANGE OF NOTES WITH GOS THAT USE OF DEVICES OF TYPE MENTIONED BY SWISS DEL AT FEBRUARY BG WOULD NOT RPT NOT BE PRECLUDED BY UNDERTAKING, INTER ALIA, NOT RPT NOT TO MANUFACTURE ANY OTHER NUCLEAR EXPLOSIVE DEVICE (HE USED SAME LANGUAGE QUOTED BELOW). HE ALSO DREW SPECIAL ATTENTION TO GOVERNORS OF PARA 3 OF INTRODUCTORY MEMO IN GOV/1751 (RE TERMINATION PROVISION IN SECTION 24 OF AGREEMENT), NOTING SPECIAL CIRCUMSTANCES INVOLVED IN THIS CASE DUE TO SWISS UNCLASSIFIED

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CONSTITUTIONAL PROBLEM, BUT ASSURING THAT PRINCIPLES

OF GOV/1621 WOULD BE FULLY MET.

3. USDEL REFERRED TO DG'S STATEMENT, RECALLED SWISS INTERVENTION AT FEB BG WHICH RAISED QUESTION AS TO WHETHER CERTAIN DEVICES BEING USED FOR RESEARCH AND DEVELOPMENT INVOLVING "EXPLOSIVE" RELEASE OF ENERGY FELL WITHIN MEANING OF PEACEFUL NUCLEAR EXPLOSIVE DEVICE, NOTED THAT SAME QUESTION HAD BEEN RAISED AT NPT REVCON, AND QUOTED US RESPONSE AS FOLLOWS: QTE A QUESTION HAS BEEN RAISED WITH RESPECT TO ENERGY SOURCES OF A KIND ON WHICH RESEARCH HAS BEEN REPORTED, INVOLVING NUCLEAR REACTIONS INITIATED IN MILLIMETER-SIZED PELLETS OF FISSIONABLE AND/OR FUSIONABLE MATERIAL BY LASERS OR BY ENERGETIC BEAMS OF PARTICLES, IN WHICH THE ENERGY RELEASES, WHILE EXTREMELY RAPID, ARE DESIGNED TO BE, AND WILL BE, NON-DESTRUCTIVELY CONTAINED WITHIN A SUITABLE VESSEL. ON THE BASIS OF OUR PRESENT UNDERSTANDING OF THIS TYPE OF ENERGY SOURCE, WHICH IS STILL AT AN EARLY STAGE OF RESEARCH, WE HAVE CONCLUDED THAT IT DOES NOT CONSTITUTE A NUCLEAR DEVICE WITHIN THE MEANING OF THE NPT OR UNDERTAKINGS IN IAEA SAFEGUARDS AGREEMENTS AGAINST DIVERSION TO ANY NUCLEAR EXPLOSIVE DEVICE. UNQUOTE. USDEL ALSO NOTED UNDERSTANDING THAT UNDERTAKINGS IN SECTIONS 2 AND 3 OF AGREEMENT ARE FULLY CONSISTENT WITH DG'S STATEMENT AT FEB BG, AS SHOWN IN PARAS 60-62 OF GOV/OR.474. USDEL INDICATED SUPPORT FOR AGREEMENT.

4. SWISS DEL EXPRESSED APPRECIATION FOR STATEMENTS OF DG AND US WHICH CLARIFIED QUESTIONS RAISED AT FEB BG. HE THEN EXPLAINED BACKGROUND OF URGENT NEED FOR THIS SAFEGUARDS AGREEMENT, I.E., SWITZERLAND'S RAPIDLY EXPANDING NUCLEAR POWER PROGRAM, THEIR NEED TO IMPORT NUCLEAR MATERIAL, EQUIPMENT AND FACILITIES FROM STATES THAT REQUIRED IAEA SAFEGUARDS ON EXPORTS OF SUCH ITEMS IN ACCORDANCE WITH INFIRC/209, AND THEIR SCHEDULE TO OBTAIN NECESSARY PARLIAMENTARY APPROVAL OF THIS SAFEGUARDS AGREEMENT BY EARLY NEXT YEAR. HE ALSO EXPLAINED REASONS FOR TERMINATION PROVISION IN SECTION 24 OF AGREEMENT, I.E., SWISS CONSTITUTIONAL PROBLEM PRECLUDING CONCLUSION OF AGREEMENTS FOR MORE THAN 15 YEARS IN ABSENCE OF UNCLASSIFIED

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NATIONAL REFERENDUM. SWISS DEL ASSURED GOVERNORS, HOWEVER, THAT ITEMS ON INVENTORY WOULD CONTINUE TO BE SAFEGUARDED BY AGENCY PURSUANT GOV/1621 IN EVENT AGREEMENT TERMINATED. HE REGRETTED LATE DISTRIBUTION OF DOCUMENT,

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BUT PLEADED FOR UNDERSTANDING FOR URGENCY INVOLVED AND
EXPRESSED HOPE THAT AGREEMENT COULD BE APPROVED.

5. FRG NOT RPT NOT OPPOSED TO AGREEMENT IN PRINCIPLE,
WELCOMED THIS TYPE OF AGREEMENT AS STEP IN RIGHT
DIRECTION FOR A MASTER AGREEMENT TO COVER IMPORTS FROM
SEVERAL SUPPLIERS, BUT STRESSED THAT THIS PARTICULAR
TEXT SHOULD NOT RPT NOT BE CONSIDERED AS "MODEL" OR
PRECEDENT FOR SUCH MASTER-TYPE AGREEMENT. FRG NOT RPT
NOT ENTIRELY SATISFIED WITH CERTAIN PROVISIONS, PARTICU-
LARLY SECTION 24 (TERMINATION) AND FACT THAT IT WOULD
NOT RPT NOT COVER ALL IMPORTS, E.G., FROM SUPPLIER STATES
NOT RPT NOT ADHERING TO INFIRC/209.

6. CANADIAN DEL WELCOMED EXPLICIT UNDERTAKINGS IN
SECTIONS 2 AND 3, STRESSED THAT THIS AGREEMENT SHOULD NOT
RPT NOT BE CONSIDERED AS "MODEL" OR PRECEDENT, AND
EXPRESSED DISAPPOINTMENT AT FACT THAT AGREEMENT DID NOT
RPT NOT INCLUDE IMPORTED NUCLEAR TECHNOLOGY. CANADIAN
DEL REITERATED STATEMENT MADE AT NPT REVCON RE NEED FOR
SAFEGUARDS ON TANGIBLE FORMS OF IMPORTED TECHNOLOGY.
NEVERTHELESS, CANADA DID NOT RPT NOT OPPOSE AGREEMENT.

7. AUSTRALIAN DEL DID NOT RPT NOT OPPOSE AGREEMENT, BUT
GOA HAD A NUMBER OF RESERVATIONS. HE ALSO REQUESTED
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EXPLICIT CONFIRMATION FROM DG AND SWISS DEL ON FOLLOWING
THREE ASSUMPTIONS:

A. IT CLEARLY UNDERSTOOD THAT APPROVAL OF THIS
AGREEMENT WOULD NOT RPT NOT PRECLUDE CONCLUSION OF OTHER
SAGEGUARDS AGREEMENTS IF CERTAIN SUPPLIERS SO REQUIRE.

B. IT UNDERSTOOD THAT PARA 28(C) OF INFIRC/66/REV 2,
WHICH IS INCORPORATED BY REFERENCE IN SECTION 9,
APPLIES TO ALL PROVISIONS OF THIS AGREEMENT, I.E.,
THAT SAFEGUARDS ARRANGEMENTS PER PARA 28(C) WOULD
INCLUDE FULL UNDERTAKINGS OF SECTIONS 2 AND 3.

C. RE SECTION 24, IT UNDERSTOOD THAT, IF AGREEMENT
TERMINATED, CONTINUED LISTING OF PRODUCED NUCLEAR MATERIAL
ON INVENTORY WOULD BE REQUIRED. DG AND SWISS DEL SUB-
SEQUENTLY PROVIDED THIS CONFIRMATION.

8. INDIAN DEL NOTED SWISS UNDERTAKING WHICH SPECIFICALLY
PRECLUDES USE OF NUCLEAR MATERIAL SUBJECT TO THIS AGREE-
MENT FOR MANUFACTURE OF ANY NUCLEAR EXPLOSIVE DEVICES,
RECALLED DG OBSERVATIONS AT FEB BG, AND, WHILE NOT RPT
NOT OBJECTING TO THIS AGREEMENT BETWEEN AGENCY AND
SWITZERLAND, HE WISHED TO REFER TO SOME GENERAL CONSIDER-
ATIONS ARISING FROM DG'S STATEMENT IN FEB. HE INDICATED
THAT DG'S STATEMENT LAYS DOWN IMPORTANT NEW POLICY
WHICH INDIA CANNOT ACCEPT WITHOUT A DETAILED PRIOR STUDY
OF ALL ITS ASPECTS AND IMPLICATIONS. IN INDIAN VIEW,
THIS AMOUNTS TO AN ATTEMPT TO INTRODUCE INTO AGREEMENTS
CONCLUDED UNDER AGENCY'S SAGEGUARDS SYSTEM PROVISIONS
WHICH ARE RELEVANT ESSENTIALLY ONLY IN CONTEXT OF NPT.
DG'S STATEMENT THAT NUCLEAR MATERIALS HAD BEEN SUPPLIED
IN MANY CASES ONLY ON BASIS THIS CONDITION IS NOT RPT NOT
STRICTLY RELEVANT TO CONSIDERATION OF OVERALL FRAME-
WORK UNDER WHICH AGENCY SAFEGUARDS AGREEMENT SHOULD BE
FORMULATED. OBLIGATIONS OF THIS NATURE WHICH INDIVIDUAL
STATES ARE VOLUNTARILY WILLING TO ACCEPT CAN, AS BEFORE,
BE UNDERTAKEN THROUGH EXCHANGE OF LETTERS, BUT IT
WOULD BE INAPPROPRIATE TO INCLUDE THIS PROVISION AS
STANDARD FEATURE OF AGREEMENT UNDER AGENCY'S SAFEGUARDS
SYSTEM, WHICH ESSENTIALLY FORCES AN NPT REQUIREMENT
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ON STATES NOT RPT NOT PARTIES TO NPT. AGENCY SHOULD
NOT RPT NOT LET "EXTRANEous CONSIDERATIONS" PREVAIL
OVER THE STATUTORY CONSIDERATIONS.

9. OTHER DELS, E.G., UK, USSR, PHILIPPINES, SWEDEN,

AND PAKISTAN ECHOED SEVERAL OF POINTS PREVIOUSLY MADE,
AND AGREEMENT WAS SUBSEQUENTLY APPROVED.

10. RE QUERIES REF A, SWISS DELS ASSURED MISOFFS
THAT THEY HAD NO RPT NO KNOWLEDGE OF ANY NUCLEAR MATERIAL,
EQUIPMENT OR FACILITIES IN SWITZERLAND NOT RPT NOT
COVERED UNDER CURRENT US/IAEA/SWISS TRILATERAL SAFEGUARDS
AGREEMENT. AGENCY (FISCHER AND MCGIBBON) PRIVATELY
ASSURED US THAT UNDERTAKINGS IN SECTIONS 2 AND 3 FULLY
CONSISTANT WITH DG'S FEB STATEMENT, AND WELCOMED US
STATEMENT TO THIS EFFECT ON THE RECORD. TAPE

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